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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,678	08/01/2000	David Michael Schertz	11302-0434	7122

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EXAMINER

REDDICK, MARIE L

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 11/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,678

Applicant(s)

SCHERTZ ET AL.

Examiner

Judy M. Reddick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/04/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. ***The following is a quotation of the second paragraph of 35 U.S.C. 112:***

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. ***Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.***

The recited contents governing the components per claims 1, 13, 14, 17, 26, 27 and 30 constitute indefinite subject matter as per the entity that said contents are being based on is not readily ascertainable, i.e., the thermoplastic article, total blend or else.

Claim Rejections - 35 USC § 103

3. ***The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:***

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. ***Claims 1-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Iwanami et al as per reasons clearly set forth in the Grounds of Rejection of record per paper no. 5, 07/02/02, paragraph no. 10.***

Claim Rejections - 35 USC § 103

5. ***Claims 1-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Jury et al as per reasons clearly set forth in the Grounds of Rejection of record per paper no. 5, 07/02/02, paragraph no. 11.***

Response to Arguments

6. ***Applicant's arguments filed 09/04/02 have been fully considered but they are not persuasive.***

Relative to the 112, 2nd paragraph issue—While Counsel, in a good faith effort, attempted to remedy the 112, 2nd paragraph issues raised in the previous office action, at least one 112, 2nd paragraph issue remains and is as set forth supra.

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Relative to Iwanami et al and Jury et al—The crux of Counsel's arguments appear to hinge on the failure of Iwanami et al and Jury et al to teach or suggest the use of an unmodified polyvinyl alcohol, i.e., the polyvinyl alcohol component used in Iwanami et al and Jury et al is a chemically modified polyvinyl alcohol. Counsel is reminded that a reference is evaluated as a whole for what it fairly teaches an is in no way limited to bits and pieces and, to this end, Counsel is cordially directed to col. 4, lines 8-38 of Iwanami et al wherein it is taught that the composition of the present invention may contain other thermoplastic resins which include polyvinyl alcohol(unmodified) and col. 4, lines 24 + ^{as Jury} wherein it is taught that suitable vinyl polymers having pendant groups on the polymeric chain that comprise oxygen atoms and are operable within the scope of patentees invention include polyvinyl alcohol(unmodified).

Relative to JP 1126373—After further consideration, coupled with Counsel's persuasive arguments, the rejection is herein withdrawn.

Conclusion

7. The prior art to Schnabel et al(U.S. 2,277,259) is cited as of interest in teaching thermoplastic articles such as fibers and films, derived from at least unmodified polyvinyl alcohol + a synthetic rubber component and considered merely cumulative to the prior art supra. A rejection based on said art may be made in the future but is not being made at this time since there is a viable rejection maintained on the record. Note the additional prior art listed is cited as of being illustrative of the prior art of record.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no

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event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703)308-4346. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703)308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)892-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-8183.

J. M. Reddick
Judy M. Reddick
Primary Examiner
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JMR *JMR*
November 7, 2002